

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE:)	
)	Chapter 11
AMERICAN TISSUE, INC., <i>et al.</i> ,)	Case No. 01-10370 (LHK)
)	Jointly Administered
Debtors.)	
)	
AMERICAN TISSUE CORPORATION,)	
)	
Plaintiff,)	C.A. No. 04mc12 (GMS)
v.)	
)	
PLASTIRUN CORPORATION,)	
)	
Defendant.)	

ORDER

WHEREAS, on December 16, 2003, Plastirun Corporation (“Plastirun”) filed a motion for leave to appeal from the District of Delaware Bankruptcy Court’s (the “Bankruptcy Court”) December 8, 2003 Order denying its motion to dismiss for insufficient service of process;

WHEREAS, on December 31, 2003, American Tissue, Inc. (“ATI”) filed a response in opposition to Plastirun’s motion;

WHEREAS, pursuant to 28 U.S.C. § 1292(b), a district court may grant leave to file an interlocutory appeal provided: (1) the order involves a controlling question of law; (2) there is substantial ground for a difference of opinion regarding the order; and (3) an immediate appeal from the order may materially advance the ultimate termination of the litigation¹; and

¹ See 28 U.S.C. § 1292(b); *Chase Manhattan Bank v. Iridium Africa Corp.*, 324 F. Supp. 2d 540, 544-45 (D. Del. 2004).

WHEREAS, after having considered the parties' submissions on the issues (D.I. 1-3), the court concludes that the Bankruptcy Court's December 8, 2003 Order denying Plastirun's motion to dismiss does not satisfy the requirements of 28 U.S.C. § 1292(b);

IT IS HEREBY ORDERED that:

1. The defendant's Motion for Leave to Appeal from the Interlocutory Order Denying its Motion to Dismiss (D.I. 1) is DENIED.

Dated: June 6, 2006

/s/ Gregory M. Sleet
UNITED STATES DISTRICT JUDGE